

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**(Attorney Docket No. 14885US01)**

In the Application of:

Kevin T. Chan

Serial No. 10/612,025

Filed: July 2, 2003

For: METHOD AND SYSTEM FOR  
AUTOMATIC MEDIA  
DEPENDENT INTERFACE  
RECONFIGURATION AND  
REPAIR

Examiner: Mon Cheri S. Davenport

Group Art Unit: 2462

Confirmation No. 5831

**Electronically Filed on January 15, 2010**

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

The Applicant requests review of the final rejection in the above-identified application, stated in the final Office Action mailed on November 24, 2009 (Final Office Action) with a period of reply through February 24, 2010. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is being requested for the reasons stated on the attached sheets.

**REMARKS / ARGUMENTS**

Claims 1-4, 6, 9-14, 16, 19-24, 26, and 29-39 are pending in the instant application. Claims 1, 11, 21 are independent. Claims 1, 11 and 21 are rejected under 35 U.S.C. §103(a) as being unpatentable over USPP Cromer 2004/0223462 ("Cromer") in view of Applicant admitted prior art (APA). Claims 2-5, 7-10, 12-15, 17-20, 22-25, 27-30 stand rejected under 35 U.S.C. §103(a) based on Cromer and APA in view of USP

5,923,663 (“Bontemps”). The Applicant respectfully traverses these rejections at least based on the following remarks.

### **I. Examiner’s Response to Arguments in the Final Office Action**

The Applicant maintains that the combination of Cromer and APA does not disclose or suggest “determining **any one usable media pair** from at least three media pairs of all existing media pairs,” as recited in Applicant’s claim 1.

The Examiner relies on Cromer’s Fig. 3, which discloses a gigabit verification procedure in a device 102 that verifies and detects whether **each of the eight required wires** is functional or otherwise non-functional (see Cromer’s abstract). More specifically, Cromer’s Figs. 2-3 disclose using a processor 130 in NIC 120 to detect and reroute **(8) output signals** generated from a media dependent interface (MIFU) 138, and **each of the rerouted (8) output signals corresponds to an input of four twisted pairs** (the alleged “at least three media pairs of all existing media pairs”) of a CAT 5 cabling connector (i.e., RJ45) (see Cromer’s ¶¶0023-0024). The Examiner equates Cromer’s “verifying and rerouting (8) output signals” and “four input twisted pairs” to Applicant’s “determining any one usable media pair” and “at least three media pairs of all existing media pairs”, respectively. The Examiner alleges that Cromer reads on Applicant’s “determining any one usable media pair from at least three media pairs of all existing media pairs”, as recited in Applicant’s claim 1.

The Applicant disagrees and refers the Examiner to Cromer’s Fig. 4 and the following citation of Cromer:

“[0025] One embodiment of **NIC 120 maintains a table 150** in RAM 132 that **defines the correspondence between logical output pins and physical output pins** of processor 130. Table 150 may also be implemented with a special or general purpose register. Processor 130 includes the ability to produce any possible correspondence between its logical pins such that **any logical pins may be assigned to any physical pin**. If NIC 120 determines that one or more signal wires in media 103 is non-functional, **NIC 120 may reconfigure the logical to physical pin correspondence to re-route signals to a set of functional signal wires** in media 103.”

See Cromer’s ¶0025 (emphasis added). Cromer discloses that each of the “rerouted (8) signals” (the alleged “any one usable media pair”) at the output are reconfigured as a logical pin that corresponds to a physical pin of the (8) wires of the four twisted pairs (the alleged “at least three media pairs of all existing media pairs”). In other words, Cromer discloses that each of the rerouted signals at the output is an independent signal (i.e., not signal pairs), and each signal of the logical pins

corresponds to a signal of single wire, but not to signals of a media pair from the four input pairs (the alleged “at least three media pairs of all existing media pairs”). In this regard, Cromer at least does not disclose or suggest “determining any one usable media pair from at least three media pairs of all existing media pairs,” as recited in Applicant’s claim 1.

Based on the foregoing rationale, the Applicant submits that Cromer also does not disclose or suggest “selecting any one channel from all existing channels, said selected any one channel being different from a general channel assignment corresponding to said determined any one usable media pair; and assigning said selected any one channel to said any one usable media pair,” as recited in Applicant’s claim 1. APA does not overcome Cromer’s above deficiencies. Claim 1 is therefore submitted to be allowable.

Accordingly, the Applicant maintains that the combination of Cromer and APA does not establish a prima facie case of obviousness to reject claim 1. Claim 1 is submitted to be allowable. Applicant’s claim 11 and 21 are similar in many respects to independent claim 1, and is submitted to be allowable at least based on the above reasons. Likewise, Bontemps does not overcome Cromer and APA’s deficiencies, and therefore dependent claims 2-5, 7-10, 12-15, 17-20, 22-25, 27-30 are also submitted to be allowable.

The Applicant maintains all remaining arguments regarding allowability of the independent and dependent claims 1-5, 7-15, 17-25 and 27-33 stated in the 7/13/09 response.

### **CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-5, 7-15, 17-25 and 27-33 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Patent Agent at (312) 775-8093.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: January 15, 2010

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